

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 25, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 10HD-224

HAWAII

Issuance of Revocable Permit to Peter H. Jose and Richard A. J. Jose for pasture purposes, Keehia, Hamakua, Hawaii, Tax Map Key: (3) 4-1-004:031.

APPLICANT:

Peter H. Jose and Richard A. J. Jose, Tenants in Common.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands at Keehia, Hamakua, Hawaii, identified by Tax Map Key: (3) 4-1-004:031, as shown on the attached map labeled Exhibit A.

AREA:

65.572 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO: Ag-40a

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$56.00 per month, based on State appraisal dated 2/7/11.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as **Exhibit B**.

DCCA VERIFICATION:

Not applicable, Applicants as individuals are not required to register with DCCA.

REMARKS:

Subject parcel was originally encumbered under General Lease No. S-3614, a thirty-year lease, which was awarded to the Laupahoehoe Sugar Company, as the successful bidder at public auction held on February 1, 1960. The lease was approved for agricultural uses, which included cultivation of sugar cane, pasture and forest.

At its meeting of September 22, 1972, agenda item F-6, the Board of Land and Natural Resources approved an extension of General Lease No. S-3614, extending lease term to December 14, 2008.

At its meeting of January 12, 1979, Item F-2, the Board of Land and Natural Resources approved consent to assignment of various General Leases and Revocable Permits held by Laupahoehoe Sugar Company and Honokaa Sugar Company to Davies Hamakua Sugar Company, a division of Theo H. Davies & Co., Ltd.

At its meeting of December 16, 1983, the Board of Land and Natural Resources approved consent to assignment of General Lease No. S-3614, from Davies Hamakua Sugar Company, Inc. to Hamakua Sugar Company, Inc.

On May 28, 1994, Hamakua Sugar Company, Inc. filed for bankruptcy in the United States Bankruptcy Court, District of Hawaii, Case No. 92-00865 (Chapter 11), as Debtor and Debtor-in-Possession.

By memorandum dated February 27, 1995, W. Mason Young, Land Administrator informed Fiscal Management Officer of cancellation of General Lease No. S-3614. In accordance with provisions of the Order Granting in Part and Continuing in Part Motion to Reject Certain Leases and Contracts and to Assume Certain Contracts Relating to Cane Fields, Bankruptcy No. 92-00865, Hamakua Sugar Company, Inc., a Hawaii corporation, Debtor, General Lease No. S-3614 is cancelled effective September 2, 1994.

The proposed use is allowable in the county zoning, which is designated agriculture.

Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Applicants qualify as a bona fide farmer pursuant to Chapter 171-14.5, HRS. Applicants are current State tenants under General Lease No. S-5320, a 35-year (6/30/1993 to 6/29/2028) pasture lease.

To date, no other inquiries have been made for the same parcel.

A request for a month-to-month tenancy is being requested, as the subject State property is a landlocked parcel with no access to a public roadway. However, access is available through Applicant's private property as an abutting landowner to the subject permit area.

Staff is of the opinion that the proposed use qualifies for an exemption from the preparation of an environmental assessment. Since the 1960s, the subject area was used to cultivate and harvest sugar cane. The proposed use will result in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As a result, staff believes that utilizing the property would involve only minor alteration in the conditions of land, water, and vegetation.

On 1/07/11, various government agencies and interest groups were solicited for comments. The only respondents were the Office of Hawaiian Affairs, the County of Hawaii's Planning Department, Police Department, and Fire Department. Each had no objections or comments to offer to the request.

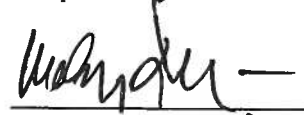
RECOMMENDATION: That the Board:

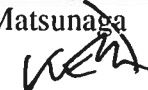
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to Peter H. Jose and Richard A. J. Jose covering the subject area for pasture purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. Permittee shall use the Premises for Pasture purposes only;
 - c. Pasture means the conduct of livestock operation consisting of keeping cattle, primarily, and others, in a minor role, such as horses, sheep and goats, where animals graze the land for feed produced thereon;
 - d. Permittee shall apply as a cooperator with the Mauna Kea Soil and Water Conservation District within thirty (30) days from the effective date of this Permit;
 - e. Permittee is required to erect and maintain perimeter fencing of stock-proof materials on the entire Permit area, at Permittee's own cost and expense;
 - f. Permittee is prohibited from using the Premises for residential or employee dwelling purposes;
 - g. No hunting will be allowed on the Premises;
 - h. Permittee shall bear the cost of utilities, if desired;
 - i. Permittee shall be responsible for securing the necessary access to the Premises. Said access shall be obtained at Permittee's sole cost and expense;
 - j. Permittee shall at all times practice good husbandry and shall be required to carry out a program of conservation in cooperation with the appropriate Soil and Water Conservation District, with which district the Permittee shall maintain cooperative status. The conservation program shall be in accordance with a conservation plan that shall be submitted to the

Chairperson of the Board for acceptance, fifteen (15) days after the approval be the appropriate Soil and Water Conservation District. The conservation plan shall include, but not be limited to, applicable practices of land clearing, range/pasture management, irrigation and drainage systems, noxious weed control, and others needed to protect the land against deterioration and prevent environmental degradation; provided however, that this requirement may be waived for the permit with little or no apparent conservation problems as verified by the appropriate Soil and Water Conservation District. In the event the activities of the Permittee in this regard shall be found to be unsatisfactory to the Chairperson of the Board, the Chairperson of the Board shall notify the Permittee and the Permittee shall be required, within thirty (30) days of the notice, to cure the fault and submit proof satisfactory to the Chairperson of the Board. In the event an approved conservation plan cannot be obtained through the Soil and Water Conservation District, the Permittee shall submit a plan of development and utilization satisfactory to the local district land agent.

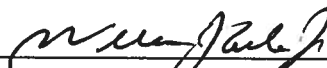
- k. Review and approval by the Department of the Attorney General; and
- l. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent 

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Interim Chairperson

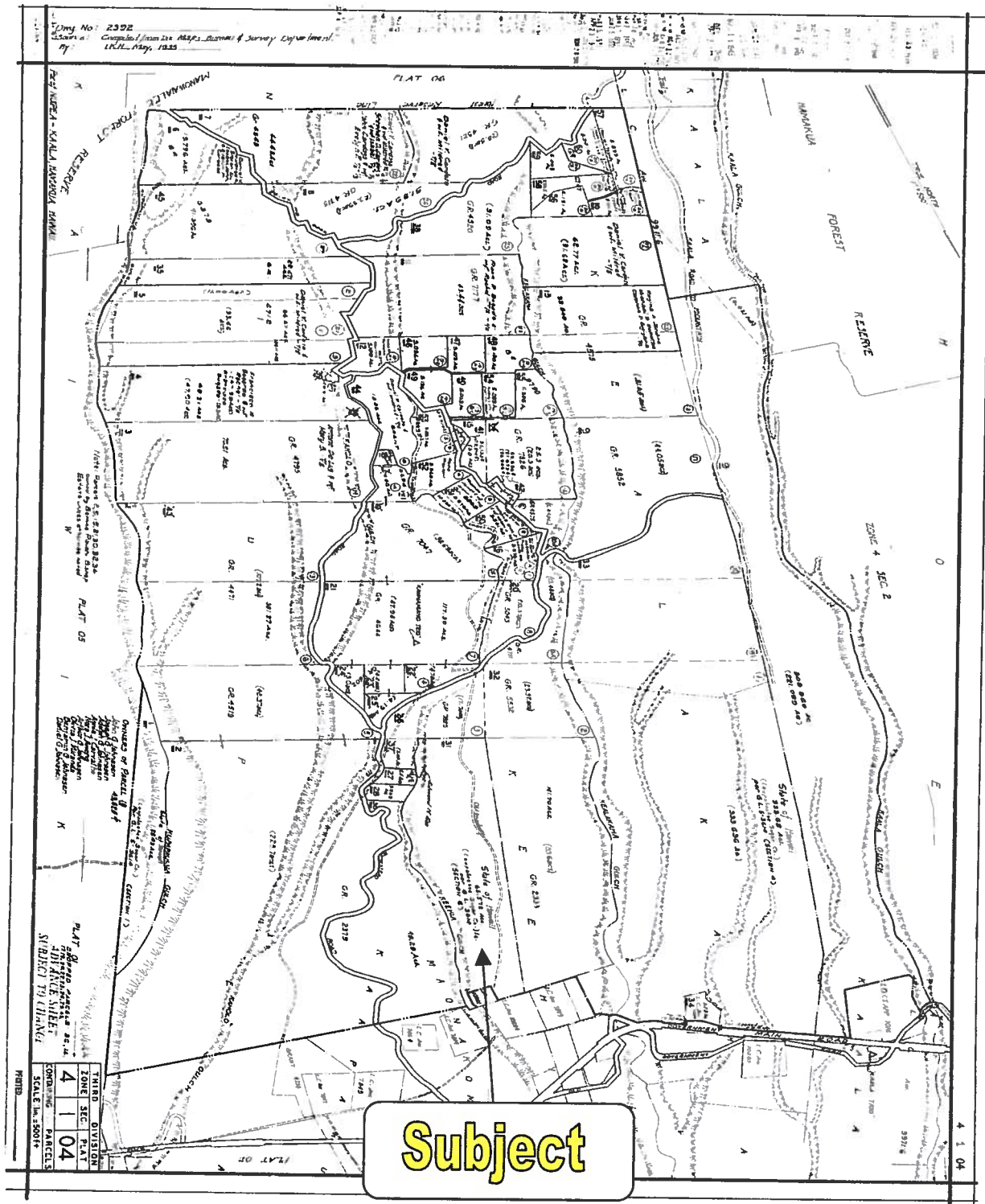


EXHIBIT A

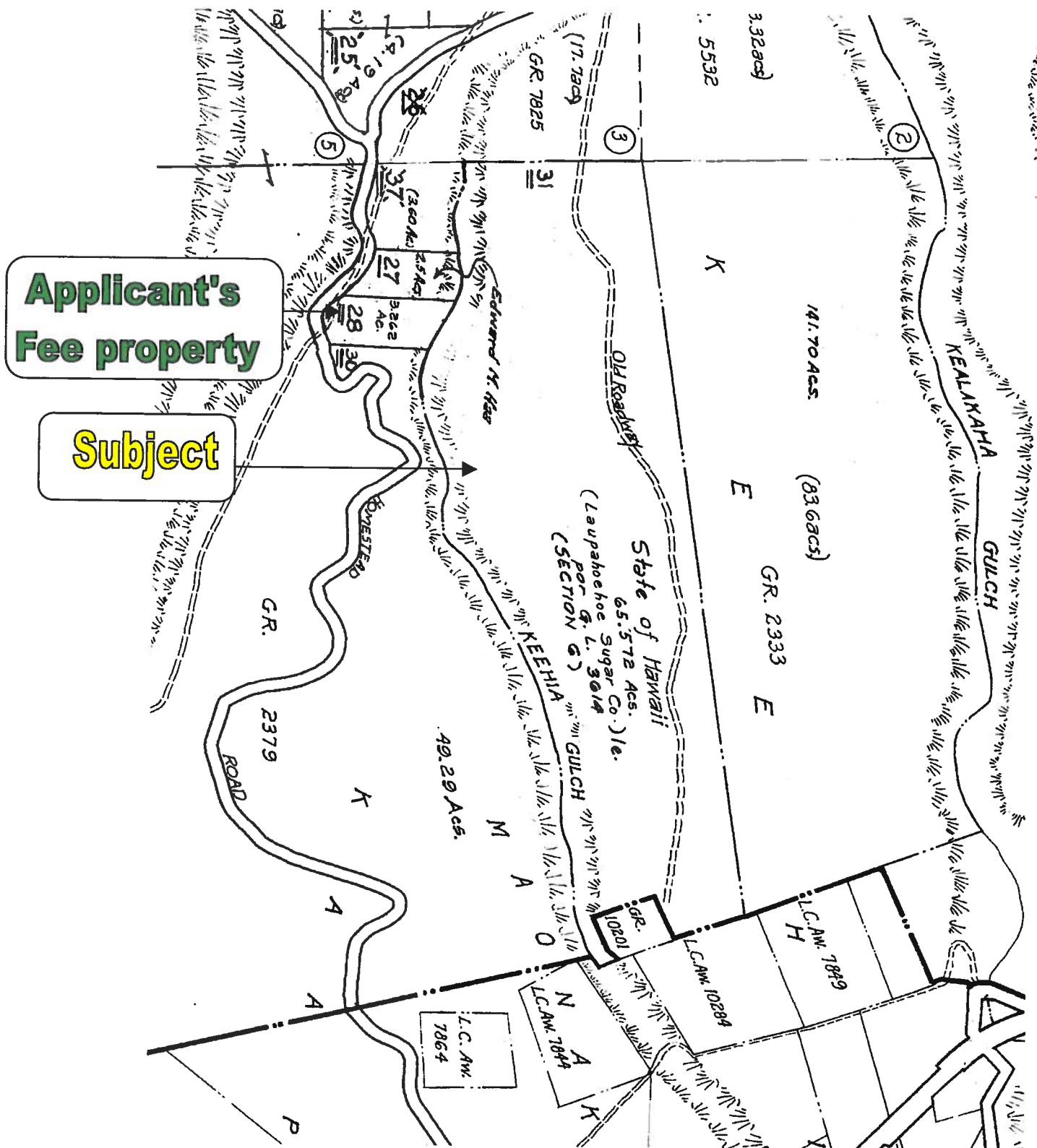


EXHIBIT A

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
INTERIM DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIKOO LAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

February 25, 2011

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Issuance of Revocable Permit to Peter H. Jose and Richard A. J. Jose for pasture purposes.
Project / Reference No.:	PSF No.: 10HD-224
Project Location:	Keehia, Hamakua, Hawaii, Tax Map Key: (3) 4-1-04: 31
Project Description:	Issuance of Revocable Permit for pasture.
Chap. 343 Trigger(s):	Use of State Lands.
Exemption Class No. and Description:	<p>In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to:</p> <p>Exemption Class No. 4, which states, "Minor alterations in the conditions of land, water or vegetation."</p>
Exemption Item Description from Agency Exemption List:	Minor alterations in the conditions of land, water or vegetation.
Consulted Parties:	Division of Forestry and Wildlife.

Recommendation:

The subject area has been in use for diversified-agriculture (sugar cane cultivation) since the 1960's and up to 1995. It is recommended that the Land Board find that the issuance of a revocable permit for pasture is exempt from Chapter 343, HRS, as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

W

William J. Aila, Jr., Chairperson

Date

EXHIBIT B